

Message Text

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16

ACTION OES-05

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E.O. 11652: N/A

TAGS: SENV, CA

SUBJ: POPLAR RIVER

1. SUMMARY: US AND CANADIAN FEDERAL, STATE AND PROVINCIAL
REPRESENTATIVES MET IN REGINA ON MARCH 5 TO DISCUSS THE
SASKATCHEWAN POWER CORPORATION'S (SPC) THERMOPOWER GENERATING
STATION ON THE EAST POPLAR RIVER. THE FOCUS WAS PARTICULARLY
ON THE THREE TROUBLESOME ISSUES WHICH AFFECT THE US: AIR QUALITY,
WATER APPORTIONMENT AND WATER QUALITY. US URGED, AND CANADA
RESISTED, REFERENCE OF PROBLEM TO IJC. END SUMMARY.

2. THE DISCUSSIONS FOCUSED ON FOLLOWING SUBJECTS:

A. AIR QUALITY: WHILE THE US WAS GRATEFUL TO LEARN ABOUT
THE IMPROVED TREATMENT TO BE GIVEN TO EMISSIONS INTO THE
AIR BY THE POWER PLANT, IT ALSO NOTED ANYTHING LARGER THAN
A 300 MEGAWATT PLANT COULD VERY WELL POLLUTE MONTANA AIR
BEYOND ACCEPTABLE STANDARDS. CANADIAN OFFICIALS UNDERLINED
THAT THE 300 MEGAWATT PLANT COULD MEET US STANDARDS
AND AGREED THAT FURTHER STUDIES WOULD BE NEEDED
BEFORE CONSTRUCTION COULD START ON A SECOND 300 MEGAWATT UNIT.

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B. WATER APPORTIONMENT: THE US POINTED OUT THAT BEFORE

IT COULD ENTER INTO ANY AGREEMENT, EITHER INTERIM OR TACIT, IT WOULD HAVE TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT. THE STATEMENT WOULD ALSO HAVE TO STUDY THE EFFECTS ON ENVIRONMENT IN CANADA. THIS LATTER POINT WAS PARTICULARLY QUESTIONED BY THE CANADIANS WHO INDICATED THAT THE SPC INTENDED TO PROCEED WITH ITS PLANS THIS SPRING TO RETAIN WATER FOR ITS PROPOSED POOL. ADDITIONALLY, THE US REPORTED CONSIDERABLE UNHAPPINESS FROM US CITIZENS IN MONTANA REGARDING THE REDUCED FLOW AND MENTIONED ITS TREATY OBLIGATIONS WITH INDIAN TRIBES TO ASSURE THE FLOW OF GOOD QUALITY WATER.

C. WATER QUALITY: THE US EXPRESSED PARTICULAR CONCERN ABOUT THE POSSIBLE SERIOUS DETERIORATION OF THE QUALITY OF THE WATER FLOWING ACROSS THE BORDER AS A RESULT OF THE SPC PLANT. THE REDUCED FLOWS UNDER APPORTIONMENT PLANS WOULD FURTHER DETERIORATE THE QUALITY OF THE WATER AS POLLUTANTS WOULD BE LESS DILUTED. AS A RESULT, THE US REQUESTED THE CANADIAN GOVERNMENT TO SUSPEND ACTIVITY ON ALL ASPECTS OF THE SPC PLANT WHICH MIGHT HAVE AN EFFECT UPON WATER FLOWING SOUTHWARD, AND POINTED OUT THAT IF CANADA WERE NOT TO AGREE TO SUCH ACTION, THE US WOULD RESERVE THE RIGHT TO HOLD IT LIABLE FOR ANY DAMAGES UNDER ARTICLE IV OF THE BOUNDARY WATERS TREATY. NOR WAS THE US PRESENCE AT THE MEETING TO BE CONSTRUED AS GIVING TACIT APPROVAL TO CANADIAN DEVELOPMENT PLANS ON THE POPLAR RIVER.

3. CANADA COUNTERED BY SAYING IT WOULD STAND BY ARTICLE IV OF THE BWT AND OFFERED TO MAKE AVAILABLE TO THE US ALL ENVIRONMENTAL STUDIES PREPARED BY THE SPC. IT FURTHER SUGGESTED THAT A US-CANADA STUDY GROUP BE ESTABLISHED FOR FURTHER DISCUSSIONS ON THE PROBLEM. THE US SAID IT WOULD BE PLEASED TO RECEIVE THE STUDIES, AGREED THAT FURTHER ACTIVITY SHOULD BE JOINT, AND PROPOSED THAT THE MATTER BE REFERRED TO THE INTERNATIONAL JOINT COMMISSION (IJC); THIS WAS NOT RECEIVED ENTHUSIASTICALLY BY THE CANADIAN GOVERNMENT. HOWEVER, THE US INSISTED THAT ANY STUDY OF THE PROBLEM SHOULD BE WITHIN ESTABLISHED PATTERNS AND THAT EXPERIENCE WITH "INDEPENDENT" GROUPS (E.G. THE ST. JOHN'S RIVER GROUP) WERE NOT SATISFACTORY.

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4. THE TWO SIDES CONCLUDED BY AGREEING THAT TERMS OF REFERENCE FOR INTERNATIONAL STUDIES SHOULD BE PREPARED BY THE TWO GOVERNMENT AND THE CANADIAN SIDE WOULD TAKE UNDER ADVISEMENT THE US SUGGESTION THAT IT BE REFERRED TO THE IJC.

5. COMMENT: SINCE ARTICLE II OF THE BWT DOES NOT SEEM

TO GIVE THE US ADEQUATE PROTECTION IN THIS INSTANCE,
PARTICULARLY SINCE HISTORICALLY AMERICAN CLAIMANT IN
CANADIAN COURTS HAVE NOT FARED WELL, EMBASSY STRONGLY
RECOMMENDS THAT ATTENTION BE FOCUSED UPON ARTICLE IV
AND THE TERMS OF REFERENCE BE DRAFTED WHICH
WOULD ASSURE PROTECTION OF US WATERS UNDER PROVISIONS OF
THAT ARTICLE. THESE TERMS OF REFERENCE SHOULD INCLUDE
STUDIES OF AIR QUALITY SINCE IT IS ALREADY DOUBTFUL
WHETHER A 300 MEGAWATT STATION REALLY DOES MEET MONTANA
STANDARDS. REGARDING WATER QUALITY, THE IJC SHOULD STUDY
THE EFFECT OF REDUCED FLOWS AND EVALUATE THE EFFECT OF ANY
POLLUTION UPON US CITIZENS RESIDING NEAR THE POPULAR
RIVER (EMBASSY NOTES THAT ONE IRATE US CITIZEN WHO CAME TO
THE HEARINGS CLAIMED THAT HIS PROPERTY WOULD BE SERIOUSLY
DEPRECIATED IN VALUE BY CANADIAN ACTION). FURTHER STUDY
SHOULD BE MADE ON WHAT EFFECTS THE PLANT ITSELF WILL HAVE
UPON THE WATER QUALITY. MONTANA AND EPA OFFICIALS CAN
SURELY PROVIDE ADDITIONAL SUGGESTIONS. EMBASSY
STRONGLY URGES THAT US INSIST THAT MATTER GO TO IJC,
THAT ANY ASPECT OF THE SPC PROGRAM WHICH AFFECTS US
WATERS BE SUSPENDED UNTIL THE IJC HAS COMPLETED ITS
STUDIES AND THAT THESE TERMS OF REFERENCE BE AGREED
TO PROMPTLY. IN THE ABSENCE OF ANY TERMS OF REFERENCE
OR ANY STRONGLY STATED US POSITION, ONE CAN SURMISE
THAT THE SPC WILL MOVE AHEAD WITH ITS PROGRAMS AND
PRESENT TO US WITH A FAIT ACCOMPLI.

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